

**REQUEST FOR
CONTINUED EXAMINATION (RCE)
TRANSMITTAL**

Subsection (b) of 35 U.S.C. § 132, effective on May 29, 2000 provides for continued examination of a utility or plant application filed on or after June 8, 1995.

See The American Inventors Protection Act of 1999 (AIPA)

Application Number: 09/785,557

Filing Date: February 20, 2001

First Named Inventor: Cesare BISLERI et al.

Group Art Unit: 1774

Examiner: C. S. Thompson

Attorney Docket Number: 05788.0156-00000

Attorney Customer Number: 22,852

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JUL 15 2003
TC 1700

This is a Request for Continued Examination (RCE) under 37 C.F.R. § 1.114 of the above-identified application.

Note: 37 C.F.R. § 1.114 is effective on May 29, 2000. If the above-identified application was filed prior to May 29, 2000, applicant may wish to consider filing a continued prosecution application (CPA) under 37 C.F.R. § 1.53(d) instead of a RCE to be eligible for patent term adjustment provisions of the AIPA. See "Changes to Application Examination and Provisional Application Practice," Interim Rule, 65 Fed. Reg. 14865 (March 20, 2000). Off. Gaz. Pat. Office 47 (April 11, 2000), which established RCE practice.

1. Submission required under 37 C.F.R. § 1.114:

a. ☒ Previously submitted

- i. ☒ Consider the amendment(s)/reply after final under 37 C.F.R. § 1.116 previously filed on May 13, 2003.
- ii. ☐ Consider the arguments in the Appeal Brief of Reply Brief previously filed on _____.
- iii. ☐ Other _____

b. ☒ Enclosed:

- i. ☐ Amendment/Reply
- ii. ☐ Affidavit(s)/Declaration(s)
- iii. ☐ Information Disclosure Statement
- iv. ☒ Other Supplemental Submission under 37 C.F.R. § 1.114

2. Miscellaneous

- a. ☐ Suspension of action on the above-mentioned application is requested under 37 C.F.R. § 1.103(c) for a period of [number] months. (Period of suspension shall not exceed 3 months; fee under 37 C.F.R. § 1.17(i) required.)
- b. ☒ Other Request an interview with the Examiner prior to any action on the merits of this application

3. Fees

- a. ☒ The filing fee is calculated as follows:
 - i. ☒ \$750.00 RCE fee required under 37 C.F.R. § 1.17(e)
 - ii. ☒ Petition for Extension of Time for (2 Months)(\$410.00)
- b. ☒ Check in the amount of \$1,160.00 enclosed.
- c. ☒ The Commissioner is authorized to charge any deficiencies in the filing fees, or credit any overpayments to Deposit Account No. 06-0916.

Signature of Applicant, Attorney, or Agent Required

Name: Anthony A. Hartmann

Reg. No.: 43,662

Signature: 

Date: July 10, 2003

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PATENT
Customer No. 22,852
Attorney Docket No. 05788.0156
Application No.: 09/785,557

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

#19

In re Application of:)
)
Cesare BISLERI et al.) Group Art Unit: 1774
)
Application No.: 09/785,557) Examiner: C. S. Thompson
)
Filed: February 20, 2001)
)
For: FIRE-RESISTANT AND WATER-)
RESISTANT HALOGEN-FREE)
LOW-VOLTAGE CABLES)

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

SUPPLEMENTAL SUBMISSION UNDER 37 C.F.R. § 1.114

Further to the Advisory Action dated May 22, 2003, Applicants respectfully request that the Examiner consider the following remarks. This paper fulfills the requirement for a "Submission" to accompany the Request for Continued Examination (RCE) under 37 C.F.R. § 1.114 filed herewith.

I. Status of Claims

Claims 53-99 are pending. Claims 68-82 have been withdrawn from consideration.

FINNEGAN
HENDERSON
FARABOW
GARRETT &
DUNNER LLP

1300 I Street, NW
Washington, DC 20005
202.408.4000
Fax 202.408.4400
www.finnegan.com

In the Advisory Action dated May 22, 2003, the Examiner maintained the rejections of claims 53-67 and 83-99 and refused to enter the proposed amendments in the Amendment Under § 1.116, filed on May 13, 2003. See Advisory Action. Applicants respectfully continue to traverse the rejections and respectfully request that the proposed amendments to claims 53 and 83 in the Amendment filed on May 13, 2003, be entered.

II. Rejection Under 35 U.S.C. § 102(e)

Claims 53-67 and 83-99 stand rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 6,339,189 to Caimi et al ("*Caimi*"). Applicants respectfully traverse this rejection.

A rejection under § 102 is only proper when the claimed subject matter is identically described or disclosed in the prior art. In re Arkley, 455 F.2d 586, 587 (CCPA 1972); see also M.P.E.P. § 706.02(a) ("For anticipation under 35 U.S.C. 102, the reference must teach every aspect of the claimed invention either explicitly or impliedly."). In the present case, the cited reference fails to teach every aspect of the claimed invention either explicitly or impliedly.

For example, *Caimi* fails to disclose, expressly or inherently, "wherein said first inner layer does not comprise an effective amount of a fire retardant agent," as recited in each of Applicants' rejected claims. *Caimi* teaches, *inter alia*, that its inner layer comprises "an inorganic charge dispersed in the matrix, so as to provide substantial fire-resistant properties." See *Caimi*, column 3, lines 40-42. In contrast, it is only Applicants' claimed outer layer that has fire retardant properties. The Examiner's

assertion that "the inner layer of the *Caimi* reference comprises a polymer matrix that has moisture resistant properties" has no bearing on anticipation or obviousness. See Continuation Sheet of Advisory Action.

Because Applicants' amendment of claims 53 and 83 renders the rejection moot, Applicants respectfully request withdrawal of this rejection.

III. Conclusion


In view of the foregoing remarks, Applicants submit that the claimed invention, as amended, is neither anticipated nor rendered obvious in view of the prior art references cited against this application. Applicants therefore request the entry of the Amendment filed May 13, 2003, and the Examiner's reconsideration and reexamination of the application, and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: July 10, 2003

By: 
Anthony A. Hartmann
Reg. No. 43,662

FINNEGAN
HENDERSON
FARABOW
GARRETT &
DUNNER LLP

558169

1300 I Street, NW
Washington, DC 20005
202.408.4000
Fax 202.408.4400
www.finnegan.com